

ORDER

IN THE UNITED STATES DISTRICT COURT FOR
THE SOUTHERN DISTRICT OF OHIO

The Kroger Co., et al. v. Excentus Corporation))) Civil Action No. 1:10-cv-00161-SSB

AND NOW, this ²⁰¹²~~24~~th day of ~~January, 2011~~

IT IS ORDERED that this action is placed under the Local Patent Rules of this Court for pretrial proceedings and all provisions of these Rules will be strictly enforced.

IT IS FURTHER ORDERED that counsel shall confer with their clients prior to all scheduling, status, or pretrial conferences to obtain authority to participate in settlement negotiations that may be conducted or ordered by the Court.


IT IS FURTHER ORDERED that compliance with provisions of Local Rule 16 and the Local Patent Rules shall be completed as follows:

- (1) The parties shall move to amend the pleadings by December 15, 2011 and add new parties by May 20, 2011.
- (2) The party claiming patent infringement shall produce or make available for inspection and copying the documents set forth in S.D. Ohio Pat. R. 103.1(b) by February 11, 2011.
- (3) The party claiming patent infringement must serve on all parties the Disclosure of Asserted Claims and Infringement Contentions described in S.D. Ohio Pat. R. 103.2 by February 11, 2011.
- (4) The party opposing a claim of patent infringement shall produce or make available for inspection and copying the documents set forth in SD. Ohio Pat. R. 103.3 by March 28, 2011.
- (5) The party claiming invalidity must serve on all parties the Disclosure of Invalidity Contentions described in S.D. Ohio Pat. R. 103.4 by March 28, 2011.
- (6) Each party will simultaneously exchange the Proposed Claim Terms and Phrases for Construction described in S.D. Ohio Pat. R. 105.1 by April 11, 2011.
- (7) Each party contending a claim term or phrase should be construed by the Court shall provide the parties with the proposed Preliminary Claim Construction of each such term or phrase described in S.D. Ohio Pat. R. 105.2(a) and supporting evidence by May 2, 2011.

- (8) Each party disputing a proposed "Preliminary Claim Construction" shall provide all parties with their proposed constructions for the disputed term or phrase ("Responsive Claim Construction") described in S.D. Ohio Pat. R. 105(2)(b) and supporting evidence by May 20, 2011.
- (9) The parties shall meet and confer regarding claim construction issues as described in S.D. Ohio Pat. R. 105.2(c) by June 13, 2011.
- (10) The parties shall file a Joint Disputed Claim Terms Chart as described in S.D. Ohio Pat. R. 105.2(e) by July 11, 2011.
- (11) The parties shall complete discovery related to Claim Construction as described in S.D. Ohio Pat. R. 105.3 by September 12, 2011.
- (12) Each of the Parties shall file and serve an Opening Claim Construction Brief by September 20, 2011.
- (13) Each of the Parties may file and serve a response to the Opening Claims Construction Brief, and any objections to extrinsic evidence by October 20, 2011.
- (14) The Court shall conduct a hearing on the issue of Claim Construction on March 27, 2012 at 9:00 am.
- (15) The parties shall complete fact discovery by August 31, 2012, and all interrogatories, depositions, requests for admissions, and requests for production shall be served within sufficient time to allow responses to be completed prior to the close of discovery.
- (16) Each party shall make its initial expert witness disclosures, as required under Rule 26, on the issues on which each bears the burden of proof by 60 days after the Court's ruling on claim construction.
- (17) Each party shall make its initial expert witness disclosures, as required under Rule 26, on the issues on which the opposing party bears the burden of proof by 30 days after the first round of expert disclosures.
- (18) Rebuttal expert witness disclosures are to be made by 14 days after second round of expert disclosures.
- (19) Expert Depositions, if any, shall be completed by September 30, 2012.
- (20) Motions for summary judgment shall be filed by November 9, 2012; responses to such motions shall be filed within 21 days thereafter, and reply briefs shall be filed within 14 days thereafter.

- (21) All parties shall file an indication whether or not they are willing to proceed to trial in front of a Magistrate Judge by October 17, 2012.
- (22) The Court shall conduct a pretrial conference on January 23, 2013, at 9:00 a.m.
- (23) The trial shall commence on February 25, 2013, at 9:00 a.m. (time), in Courtroom No. 822.

IT IS SO ORDERED.


UNITED STATES DISTRICT JUDGE
(or)
~~UNITED STATES MAGISTRATE JUDGE~~

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